

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

DR. FRANCIS FITZMAURICE,)	Case No. 8:06cv377
An Individual,)	
)	
Plaintiff.)	
)	
vs.)	<u>PROTECTIVE ORDER</u>
)	
CREIGHTON UNIVERSITY,)	
A non-profit corporation,)	
)	
Defendant.)	

This matter is before the Court upon the Joint Motion of the parties for entry of a Protective Order. The Court, being fully advised in the premises, finds as follows:

1. The parties involved in this litigation may designate as "CONFIDENTIAL" any document, testimony, information or material disclosed through formal or informal discovery or otherwise in the course of this litigation in the manner hereinafter set forth in Paragraph 2. Such designations shall subject the information produced or provided under said designation to the provisions of this Confidentiality Agreement and Protective Order.

2. The parties may designate the following categories of documents as confidential: medical records regarding non-parties, personnel records, proprietary business information, and trade secret or other confidential research, development, or commercial information pursuant to Federal Rule of Civil Procedure 26(c).

3. Whenever any writing, testimony, information or material designated as "CONFIDENTIAL" is used or submitted to the Court in conjunction with any filing or proceeding in this litigation, it shall be so marked and shall be filed separately under seal with the Clerk of the Court. With respect to any medical or hospital records, the following identifiers must be redacted before any such document is filed with the Court:

- Name
- Phone #
- Fax #
- E-mail address
- Social Security Number
- Medical Record #
- Health plan beneficiary #
- Account #s
- Certificate or license #s
- Vehicle Identification #s
- License plate #s
- Device ids and serial #s
- URLs
- IP addresses
- Biometric identifiers (finger, voice prints)
- Full face photos and comparable images;
- Geographic subdivisions smaller than state (address, city, county, precinct, zip code, geocodes - except first 3 digits of zip if it contains 20,000+ people OR it is changed to 000); **AND**
- All date elements except yr for dates directly related to the individual - DOB, admit date, discharge date, DOD, and all ages over 89 (although you may aggregate for 90+; **AND**
- "Other unique identifying #s, characteristics, or codes."

4. Except upon prior written consent of the party asserting "CONFIDENTIAL" treatment or upon further order of this

Court, documents, testimony, information or material designated as "CONFIDENTIAL" shall be held in strict confidence and shall be used solely for the purposes of prosecution or defense of this litigation. Access to "CONFIDENTIAL" documents, testimony, information or material shall be limited to:

- (a) Counsel for the respective parties (including house counsel and co-counsel) and employees of said counsel who are assisting in the prosecution or defense of this litigation;
- (b) Experts and consultants (including independent experts and consultants, and employees or clerical assistants of said experts) who are employed, retained or otherwise consulted by counsel or a party for the purpose of analyzing data, conducting studies or providing opinions to assist in such litigation;
- (c) Parties or officers or employees of the respective parties;
- (d) Potential witnesses; and
- (e) The Court or its authorized personnel to receive the information as provided herein.

5. Except as otherwise provided for in this Protective Order, all "CONFIDENTIAL" information and material shall remain

in the possession of counsel for the respective parties, and be stored in a secure place.

6. Should any party hereto seek to utilize any "CONFIDENTIAL" document, testimony, information or material at trial, it shall meet with counsel for the other parties hereto in an effort to agree upon a procedure to insure the confidentiality of such document, testimony, information or material. In the event counsel are unable to reach agreement, the matter will be submitted to the Court.

7. Upon termination of this litigation, all copies of "CONFIDENTIAL" documents, testimony, information or material (and all summaries thereof) shall be returned to counsel for the producing party.

IT IS SO ORDERED.

DATED May 23, 2007.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge